

# THE LEONARD LETTER

July 18, 2005

## QUOTE OF THE WEEK

*"One of the greatest delusions in the world is the hope that the evils in this world are to be cured by legislation." --- Thomas B. Reed (1839-1902) Speaker of the U.S. House of Representatives, "1886*

## UNDER THE DOME

### \*\*\*Meeting of the Minds\*\*\*

Sacramento Bee columnist Daniel Weintraub has offered up his services to help find common ground in the partisan bickering under the dome. The key to any political negotiations (or, for that matter, any human interaction) is to find a way to meet the other person's needs). With a concept he calls "wiki-drafting," Weintraub encourages readers to submit ideas for reform that will give both sides what they need. He invites anyone to offer ideas on any or all of these sticking points:

--Some kind of smoothing mechanism that limits spending in boom years to avoid committing one-time money to ongoing programs.

--A provision to allow a governor to offer or impose mid-year corrections if a deficit is looming (or worsening).

--A device to prevent summer budget stalemates."

--An amendment to Proposition 98 to prevent or reduce its tendency to ratchet up school spending in good years without regard to the state's ability to keep up with that level of spending if revenues drop."

I commend Weintraub for this exercise and hope that it provides some good ideas that the Governor and legislative leaders can use to solve our state's fiscal problems. If you have some of those ideas, write to Weintraub at [dweintraub@sacbee.com](mailto:dweintraub@sacbee.com).

My advice is to start with the Governor's Live Within Our Means (<http://www.lao.ca.gov/ballot/2005/050176.htm>) measure that is already on the special election ballot. If you do not think it works, then suggest amendments that would make it work, and if you oppose it altogether, then write up ideas that would accommodate Weintraub's list.

### **\*\*\*Hard Lemonade or Hard Liquor?\*\*\***

Attorney General Bill Lockyer has recently launched a very politicized campaign against teenage drinking. His target is flavored malt beverages, which he blames for having a greater influence on teenage drinking than beer, wine, and all distilled spirits. He hopes that the liquor industry will challenge him so he can have a public spat as the election year approaches. His problem is that so far no one is fighting him.

These beer-based drinks typically contain 4-5% alcohol by volume, along with various artificial and natural flavorings to modify the beer taste. Instead of taxing these popular drinks at 20 cents per gallon (the rate for beer), the Attorney General has demanded that the Board of Equalization retroactively increase taxes to \$3.30 per gallon (the rate for distilled spirits).

The underlying problem is that California's legal definition of beer has not kept pace with advances in modern food technology. Our 70-year-old law defining beer is eerily reminiscent of Germany's famous Beer Purity Law of 1516. In California, "Beer means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water..." This definition pre-dates the invention of most artificial flavorings, food colorings and food preservatives. Under a very stringent interpretation of this statute, most products now sold as "beer" may not qualify as beer.

At this point, very little is known about the precise recipe for each brand of flavored malt beverage. Some brands allegedly get most of their alcohol from distilled spirits added to the beer base, so the manufacturers may only have themselves to blame if the Board is ultimately forced to tax them as distilled spirits. How taxing these drinks as distilled spirits will deter teenage drinking is beyond me, but it may look good as a campaign slogan.

### **\*\*\*"The People Aren't Always Right"\*\*\***

After a bill allowing homosexual marriage was moved to the Senate floor last week, Senator Gil Cedillo was asked his thoughts about California voters' view of the matter. Five years ago, more than 60% of California voters approved Proposition 22, defining marriage as between a man and a woman. Cedillo responded: "The people have spoken. They have spoken. But people aren't always right." That is a convenient view, and one I believe Senator Cedillo will need to invoke again. Cedillo is the force behind the effort to grant drivers' licenses to illegal immigrants. I believe that California voters will speak loudly and clearly on that matter, too. There is simply not a groundswell to grant legal rights to people who disobeyed the law to get here. In fact, there is a growing groundswell of people outraged by the consequences of illegal immigration. But Cedillo will dismiss any public sentiment, opinion poll or vote that demonstrates that outrage, as well.

### **\*\*\*Anyone Know a Good Lawyer?\*\*\***

I recently attended a meeting with the editors of the Sacramento Bee newspaper at their headquarters in Sacramento. Having undergone surgery for the torn quadriceps muscle and tendon in my left leg, I was confined to a wheelchair. It was an opportunity to experience life the way disabled people do.

Imagine my surprise in discovering that the newspaper building was not accessible for the handicapped. I had to wheel down the hall to an out-of-the-way elevator that was not large enough to accommodate me. With assistance from two people, I rode the elevator standing while leaning awkwardly against the wall, with my wheelchair collapsed beside me. I am not an expert in disabled access laws, but I suspect there were some violations of the Americans with Disabilities Act ("ADA"). Under California's misguided laws, even the most technical violations of the federal ADA are treated as violations of California's own civil rights laws, with a minimum fine of \$4,000 per violation, plus attorneys' fees and court costs. No other state enforces the ADA in this manner.

The irony is that California tried to change this law during this legislative session but the lackeys for the lawyers killed the reform bills by Senator Poochigian and Assemblyman Leslie. Too bad the Sacramento Bee did not push for passage of a bill that would give every property owner a reasonable period of time to fix the problem before the penalties hit. The Bee staff profusely apologized to me and said that the situation was temporary since the big elevators would be available soon. I believe them even though it was not soon enough for me, but under the current law that does not relieve them of liability and penalties. The real importance of the ADA law is that disabled have access, not that lawyers make money off of fines. I suggest the bills fixing this situation be re-introduced and that the Bee be solicited for support.

## **MISCELLANY**

### **\*\*\*A Good Read\*\*\***

Witnessing the great resolve of Britons in light of the terrorist attacks on their transit systems, I am reminded of the great example of courage and determination demonstrated by their Prime Minister Winston Churchill during World War II. This week I recommend reading about Churchill. Many, many volumes have been written about this great man. For a basic overview of his life, how his character was formed and the times in which he lived and led, see William Manchester's "The Last Lion." The work is in two volumes, "Visions of Glory" covering 1874 to 1932 and "Alone" covering 1932-1940. To understand how to interpret and apply Churchillian wisdom to your life, your leadership role or the modern world, I recommend "Churchill on Leadership: Executive Success in the Face of Adversity" by Steven Hayward. Hayward identifies four qualities that made Churchill effective: "candor and plain speaking, decisiveness, the ability to balance attention to details with a view of the wider scene, and a historical imagination

that informed his judgment.” These are qualities needed in today’s leaders who face a new enemy, much different from yet no less evil than the enemy that Churchill defeated.

## **BOE AND LEGISLATIVE DATES**

**August 15, 2005** --- Legislature reconvenes from summer recess.

**August 31-September 1, 2005** --- BoE meets in Sacramento.

**September 5, 2005** --- Labor Day.

**September 9, 2005** --- Last day for any bill to pass the legislature; interim recess beings upon adjournment.

**September 20-21, 2005** --- BoE meets in Culver City.

## **NOTABLE DATES/ HISTORY**

**July 19, 1867** --- Republican Congress overrode Democrat President Andrew Johnson’s veto of legislation protecting voting rights of African-Americans.

**July 19, 1880** --- The San Francisco Public Library started lending books.

**July 19, 1985** --- Christa McAuliffe was chosen as the first schoolteacher to fly the space shuttle.

**July 20, 1854** --- Anti-slavery activists in Worcester, MA founded the Massachusetts Republican Party.

**July 20, 1868** --- Stamp taxes on cigarettes were first used.

**July 21, 1861** --- Confederate troops held tight against Union forces at the Battle of Bull Run during the Civil War.

**July 21, 1930** --- The U.S. Veterans Administration was established.

**July 21, 1998** --- Alan Shepard, the first American in space, died in Monterey, California, at age 74. Shepard was the fifth person to walk on the moon.

**July 22, 1775** --- George Washington took command of the colonial troops.

**July 22, 1916** --- A bomb went off during a Preparedness Day parade in San Francisco, killing 10 people.

**July 24, 1974 ---** The Supreme Court unanimously ruled that President Nixon must turn over Watergate tapes.

## **GENERAL TAX INFORMATION**

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115  
TDD service for the hearing impaired  
TDD phones: 800-735-2929  
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

## **HOW TO CONTACT ME**

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